



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

June 30, 2004

Colonel Timothy J. Gallagher
District Engineer
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

Re: POA-2004-492-2
Port St. Nicholas

Attn: Carlos Paez

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by Mr. David and Mrs. Judi Smith to grade the existing beach to create a 12-foot wide by 190-foot long boat ramp; install a 6-foot wide by 200 foot long access float adjacent to the ramp and held in place by five 12 inch galvanized steel pipes; and install 8 inch wide by 8 inch deep by 24 inch long concrete blocks at the corner of the float sections for the float to rest on during low tides. According to correspondence received on June 28, 2004, NMFS understands that the boat launch ramp is being removed from the permit applications due to costs.

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act requires Federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. Juvenile salmon use the inshore area of Port St. Nicholas during spring and early summer for feeding and predator avoidance prior to migration out to sea. The inshore area of the project location also provides important habitat for several marine species including Pacific cod, arrowtooth flounder, Pacific ocean perch, dusky rockfish, shortraker rougheye rockfish, yelloweye rockfish, flathead sole, rex sole, sablefish and sculpins.

The applicant proposes to allow the floating walkway to settle during low tide on concrete blocks placed on the intertidal substrate. NMFS consistently recommends against allowing the grounding of floating structures at any tidal stage to protect benthic habitat. The Corps Seattle District also recommends against the grounding of floating structures because of potential impacts to EFH. As stated in the enclosed Corps document "Every time a float grounds out on a beach, it disturbs the beach substrate, harming small animals living in the beach or destroying eggs from small forage fish spawning on the beach." A prohibition against the grounding of floating structures is a standard condition of most Corps permits.



In the case of the subject application, the ability of the concrete blocks to raise the walkway sufficiently to prevent contact with the benthos (grounding) is dependant upon the applicant being allowed to grade the substrate in the project area prior to construction of the walkway. Grading of the substrate will adversely affect EFH. Because the purpose of prohibiting grounding is to prevent adverse impacts to EFH, grading is not a reasonable alternative.

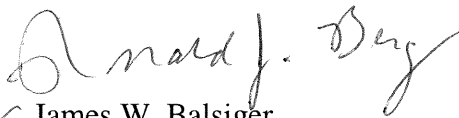
In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, we offer the following conservation recommendations.

1. The request to allow the floating walkway to ground during low tides should be denied. The proposed habitat blocks should be of sufficient size to prevent grounding *without alteration of the existing benthic habitat*, or an alternative method should be used to prevent the dock from grounding. Alternative methods may include a pile supported walkway, or the use of stops on the walkway pilings that would suspend the walkway several feet above the substrate and prevent the walkway from coming into contact with the ground during low tidal stages.
2. The use of any wood that has been surface or pressure-treated with creosote or treated with pentachlorophenol should be prohibited.
3. Alternatives to treated wood that have no or reduced toxicity should be used wherever practicable.
4. If treated wood must be used, any wood that comes in contact with marine or aquatic environments should be treated with waterborne preservatives approved for use in aquatic and/or marine environments.
5. The Applicant should only use wood that has been treated in accordance with best management practices developed by the Western Wood Preservers Institute for wood used in marine and aquatic environments. The applicant should be advised that not all treated wood is treated to this standard.
6. Over-water structures should be designed to prevent abrasion and splintering of wood.
7. All cutting and boring of treated wood should take place in upland areas; all waste materials should be kept out of the aquatic environment and be properly disposed of upland. Treated wood materials should not be stored in-water. Any cut wood, chips or sawdust from treated wood that should be collected promptly and disposed of at an acceptable upland site.
8. No docks, ramps or other structures should be placed in or over eelgrass beds.
9. All work below the high tide line should be limited to low tidal stages to reduce turbidity.
10. No in-water work should be permitted from March 1 through June 15 of any year to protect out migrating salmon.

Under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH recommendations in writing within 30 days. If the Corps will not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, the Corps should provide NMFS with a letter within 30 days to that effect, and indicate when a full response will be provided.

If you have any further questions, please contact Katharine Miller at 907-586-7643.

Sincerely,


For James W. Balsiger
Administrator, Alaska Region

cc: Applicant
EPA Juneau, Chris Meade
ADF&G, Janet Schempf
ADEC, AADGC, ADNRR, USFWS, Juneau